

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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|--------------------------|---|---------------------------|
| UNITED STATES OF AMERICA |) | |
| |) | CRIMINAL NO. 04-10286-PBS |
| |) | |
| v. |) | |
| |) | |
| |) | |
| MICHAEL W. ALCOTT, |) | |
| Defendant |) | |
| |) | |

**ASSENTED TO GOVERNMENT’S MOTION TO MAKE
DOCUMENTS PART OF RECORD ON APPEAL**

Pursuant to FRAP 10(e)(2), the government respectfully requests that the Court make part of the record of the above-captioned case the full copy of the Motion to Modify Release Conditions (the "Motion"), which is attached hereto at Tab A. As grounds for this motion, the government states the following:

1. The defendant’s appeal of his sentence is pending in the Court of Appeals.
2. FRAP 10(e)(2) provides that if “anything material to either party is omitted from***the record by error or accident, the omission***may be corrected and a supplemental record may be certified and forwarded***(B) by the district court before or after the record has been forwarded.”
3. The full copy of the Motion was filed in court at a hearing on April 28, 2005. See Transcript of April 28, 2005, attached at Tab B. The Motion as filed included an attached Affidavit of Scott Robbins (the "Affidavit"). That Affidavit is expressly mentioned in the Motion itself and was expressly discussed at the hearing on April 28, 2005. See Transcript of April 28, 2005, pp. 5-9. The Court placed the motion under seal at the hearing on April 28, 2005. See Transcript of April 28, 2005, p. 16.

4. While the first two pages of the Motion were forwarded to the First Circuit, the Affidavit does not appear to have been forwarded. The government has been unable to determine whether the Affidavit remains in the Court's file.

5. A complete copy of the Motion will help to complete the appellate record of documents that were before the Court during the course of the district court proceedings.

6. On January 10, 2007, the undersigned Assistant U.S. Attorney spoke to defense counsel Kevin Barron, Esq., who assents to this motion.

For these reasons, the government respectfully requests that the Court allow this motion, and order that the document attached at Tab A be made part of the record, and that a supplemental record be certified to the Court of Appeals.

Respectfully submitted,
MICHAEL J. SULLIVAN
United States Attorney

By: /s/ Jack W. Pirozzolo
JACK W. PIROZZOLO
Assistant United States Attorney

Dated: January 10, 2007

Certificate of Service

I, Jack W. Pirozzolo, certify that today, January 10, 2007, I caused this motion to be served by first class mail on the defendant's attorney.

/s/ Jack W. Pirozzolo
Jack W. Pirozzolo